

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to OWI and implied consent and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 620, “OWI and Implied Consent,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321J.20.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321J.20 and 901D.7 as amended by 2019 Iowa Acts, Senate File 364, sections 1 and 2.

Purpose and Summary

The proposed amendments update Chapter 620 to conform the rules with 2019 Iowa Acts, Senate File 364, sections 1 and 2, which amended Iowa Code sections 321J.20 and 901D.7; correct the name of the Driver and Identification Services Bureau; and remove unnecessary language. The 2019 amendment to Iowa Code section 321J.20 provides that the length of participation in the 24/7 sobriety program, which may be a condition of a temporary restricted license issued to a person whose driver’s license has been revoked for certain operating while intoxicated (OWI) offenses, shall continue for the time ordered by the court under Iowa Code section 901D.7. The 2019 amendment to Iowa Code section 901D.7 provides that the length of participation in the 24/7 sobriety program shall be at least 90 days, with a minimum 30-day period during which the person must not have missed or failed an alcohol or drug test under the program immediately preceding discharge from the program. Iowa Code section 321J.20 was also amended in Senate File 364, section 1, to require that the law enforcement agency administering the 24/7 sobriety program within a participating jurisdiction notify the Department when the person’s participation in the program has been completed.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 17, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

September 19, 2019
9 a.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs. The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—620.2(321J) as follows:

761—620.2(321J) Information and location. Applications, forms, information, assistance, and answers to questions relating to this chapter are available by mail from the Driver and Identification Services Bureau, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; or by facsimile at (515)239-1837.

ITEM 2. Amend paragraph **620.3(1)“b”** as follows:

b. To apply for a temporary restricted license, an applicant shall, at any time before or during the revocation period, submit application Form 430400 to the driver and identification services at the address in 761—620.2(321J) bureau. The application form should be furnished by the arresting officer. It may also be obtained upon oral or written request to the driver and identification services bureau.

ITEM 3. Amend subrule 620.3(4) as follows:

620.3(4) Denial. A person who has been denied a temporary restricted license or who contests the restrictions imposed by the department may request an informal settlement conference by submitting a written request to the director of the driver and identification services at the address given in 761—620.2(321J) bureau. Following an unsuccessful informal settlement or instead of that procedure, the person may request a contested case hearing in accordance with rule 761—620.4(321J).

ITEM 4. Amend subrule 620.4(1) as follows:

620.4(1) Contested case hearing.

a. A person may request a contested case hearing by checking the appropriate box on Form 432018 and submitting it to the department or by submitting a written request to the director of the driver and identification services at the address given in 761—620.2(321J) bureau. The request shall include the person's name, date of birth, ~~driver~~ driver's license number, complete address and telephone number.

b. No change.

c. A request for a hearing to contest a revocation shall be submitted within ten days after receipt of the revocation notice. The request shall be deemed timely submitted if it is delivered to the director of the driver and identification services bureau or properly addressed and postmarked within this time period.

d. and e. No change.

ITEM 5. Amend subrule 620.4(2) as follows:

620.4(2) Appeal. A decision by a presiding officer shall become the final decision of the department and shall be binding on the department and the person who requested the hearing unless either appeals the decision in accordance with this subrule.

a. and b. No change.

c. An appeal of the presiding officer's decision shall be submitted in writing by sending the original and one copy of the appeal to the director of the driver and identification services at the address given in 761—620.2(321J) bureau.

d. An appeal shall be deemed timely submitted if it is delivered to the director of the driver and identification services bureau or properly addressed and postmarked within ten days after receipt of the presiding officer's decision.

e. The director of the driver and identification services bureau shall forward the appeal to the director of transportation. The director of transportation may affirm, modify or reverse the decision of the presiding officer, or may remand the case to the presiding officer.

f. No change.

ITEM 6. Amend subrule 620.4(5) as follows:

620.4(5) Petition to reopen a hearing.

a. A petition to reopen a hearing pursuant to Iowa Code section 17A.16 shall be submitted in writing to the director of the driver and identification services at the address in 761—620.2(321J) bureau. If a petition is based on a court order, a copy of the court order shall be submitted with the petition. If a petition is based on new evidence, the petitioner shall submit a concise statement of the new evidence and the reason(s) for the unavailability of the evidence at the original hearing.

b. No change.

c. A person may appeal a denial of the petition to reopen. The appeal shall be deemed timely if it is delivered to the director of the driver and identification services at the address in 761—620.2(321J) bureau or properly addressed and postmarked within 20 days after issuance of the decision denying the petition to reopen.

ITEM 7. Amend subrule 620.17(2) as follows:

620.17(2) Duration. ~~Unless otherwise provided in Iowa Code chapter 901D or Iowa Code section 321J.20, the person shall be required to participate in the sobriety and drug monitoring program for the length of time that an ignition interlock device is required as provided in Iowa Code section 321J.20~~ The requirement to participate in and comply with the sobriety and drug monitoring program shall continue for the time period required pursuant to Iowa Code section 901D.7 as amended by 2019 Iowa Acts, Senate File 364, section 2. The participating local enforcement agency shall notify the department when the person has completed participation in the sobriety and drug monitoring program.

ITEM 8. Amend **761—Chapter 620**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 321J as amended by 2019 Iowa Acts, Senate File 364, section 1; and 901D as amended by 2019 Iowa Acts, Senate File 364, section 2; and sections 321.193, 321.201, 321.376 and 707.6A.